IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13995 of 2005

Between:

Smt.V.Seethamma, W/o.late V.Subba Raju,
R/o.Chinamallam Village, Penugonda Mandal
West Godavari District.

..... PETITIONER

AND

1 The State of Andhra Pradesh,

rep., by its Secretary to Endowments Department,

Secretariat, Hyderabad.
2 The Commissioner of Endowments,

Andhra Pradesh, Hyderabad.
3 The Regional Joint Commissioner of Endowments,

Kakinada, East Godavari District.
4 The Asst. Commissioner of Endowments,

Eluru, West Godavari District.
5 Sri Katlamma Ammavari Temple,

rep., by its Executive officer,

Chinamallam village, Penugonda Mandal,
West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of

Mandamus by declaring the order Rc.No.A2/ 2812/2004-Adm, dated 07-06-2005 of the 4th respondent and putting the land admeasuring Ac.2.00 cents in R.S.No.33 of Chinamallam village, Penugonda Mandal, West Godavari district and putting the same for auction without following the due procedure of law as illegal, arbitrary and violative of principles of natural justice and also violative of A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to continue the petitioner as tenant of the said land.

Counsel for the Petitioner: Mr. V.AJAYAKUMAR

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court, at the stage of admission, made the following :

ORDER:

The petitioner claims to be the widow of the tenant of the agricultural lands of Sri Katlamma Ammavari Temple, Chinamallam village, Penugonda Mandal, West Godavari District. Her husband expired on 24-06-2003 and thereby, she claims, she has been cultivating the lands, and the temple has also been receiving the rents from her. Claiming to be a landless poor person and therefore entitled to the benefits under Section 82(2) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for brevity, "the Act"), the petitioner made an application to the 4th respondent for the benefits. The 4th respondent by a notice, dated 23-05-2005, called upon the petitioner to attend an inquiry on
07-06-2005 for determination of her claim to being a landless poor person. The said notice was received by the petitioner on
08-06-2005, after the date fixed for inquiry. While so, on 07-06-2005 itself, the 4th respondent by the order impugned came to the conclusion that the petitioner is not entitled for any relief. Among the reasons recorded in the said conclusion, is that, there is no valid lease in favour of the petitioner and therefore she is not a tenant and thus not entitled to the benefits under Section 82(2) of the Act.

2. The petitioner's singular grievance in this Writ Petition is that the 4th respondent passed an order, dated 07-06-2005, even before the notice, calling upon her to attend the inquiry, was served on her and therefore, she was denied reasonable opportunity.

3. The point is well taken. The petitioner has not been afforded
a reasonable opportunity. On this ground, and without any finding on the merits of

the petitioner's claim or of the validity of the 4th respondent's order dated 07-06-2005 on merits, the 4th respondent's order dated 07-06-2005 is set aside for violation of the principles of natural justice and failing to afford a reasonable opportunity to the petitioner to participate in the inquiry. The 4th respondent shall now conduct an inquiry after giving a reasonable opportunity to the petitioner and shall in the said inquiry determine whether the petitioner was legitimately a lessee of the subject temple lands and if so, whether she is a landless poor person and therefore entitled to the benefits under Section 82(2) of the Act. Nothing in this order shall be construed as an impediment to the auction of the temple lands for the purpose of realizing a competitive lease and if any such auction is conducted the petitioner also, if eligible, shall be entitled to participate thereat without prejudice to her claims for the benefits under Section 82 of the Act.

4. Accordingly, the Writ Petition is disposed of.

_____

(GODA RAGHURAM,J)

1st July, 2005.

Tsy

To

1 The Secretary,

Endowments Department,

State of Andhra Pradesh,

Secretariat, Hyderabad.

2 The Commissioner of Endowments,

Andhra Pradesh, Hyderabad.

3 The Regional Joint Commissioner of Endowments,

Kakinada, East Godavari District.

4 The Asst. Commissioner of Endowments,

Eluru, West Godavari District.

5 The Executive Officer,

Sri Katlamma Ammavari Temple,

Chinamallam village, Penugonda Mandal,
West Godavari District.

6 Two CCs to the GP for Endowments,

High Court of A.P., Hyderabad (O.U.T.)

7 Two CD copies